

ORIGINAL

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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MAR 31 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
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Closed Captioning and Video )  
Description of Video Programming )  
 )  
Implementation of Section 305 of the )  
Telecommunications Act of 1996 )  
 )  
Video Program Accessibility )  
\_\_\_\_\_ )

MM Docket No. 95-176

REPLY COMMENTS

Pursuant to Section 1.415 of the Commission's Rules, the Catholic Television Network ("CTN") hereby submits its response to the initial comments filed regarding the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.<sup>1</sup>

I. THE COST OF CAPTIONING ITFS PROGRAMMING IS PROHIBITIVE.

In its "Comments," CTN recommended that the Commission exempt ITFS programming from any captioning requirement due in part to the economic burden of captioning. Other commenters provided dramatic illustrations of this burden. For example, the Archdiocese of Los Angeles Education and Welfare Corporation, the Diocese of Orange Education and Welfare Corporation, and Caritas

<sup>1</sup> Closed Captioning and Video Description of Video Programming, FCC 97-4 (released Jan. 17, 1997).

Telecommunications, Inc., pointed out that mandatory captioning of ITFS programming would be extremely burdensome and would "reduce drastically the amount of new educational material available to students."<sup>2</sup> Caritas estimated that captioning would cost from one-half its current annual operating budget, if it performed the captioning itself, to three to 10 times the budget, if it retained an outside company to perform the captioning.<sup>3</sup>

Similarly, the Roman Catholic Diocese of Rockville Centre, estimated that:

it would cost \$7800 per day just to caption a *single channel* of ITFS programming. Applying this figure to the entire school year . . . Telicare further estimates that it would cost over \$1,000,000 to caption a single channel of ITFS programming for an entire school year.<sup>4</sup>

These estimates, based on captioning costs supplied by the Commission, illustrate that a mandatory captioning requirement would not be feasible for ITFS programming. ITFS licensees do not have the resources of large commercial networks, and so, could not meet captioning requirements and still offer the schedule of programming which their educational missions require. Therefore, the Commission should heed the commenters who stress the overwhelming financial burden that the Commission's proposed captioning requirements would place on

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<sup>2</sup> Comments of Archdiocese of Los Angeles, et al., at 3.

<sup>3</sup> *Id.* at 3-4. Caritas serves as the educational provider for schools in the Diocese of San Bernardino. *Id.* at 2. The impact of similar cost estimates on ITFS licensees was discussed in the Comments of the ITFS Parties, at 5-6.

<sup>4</sup> Comments of Diocese of Rockville Centre, at 3.

ITFS licensees,<sup>5</sup> and reach the conclusion that ITFS programming merits an exemption from any captioning requirements adopted in this proceeding.

## II. ITFS PROGRAMMING MUST BE TREATED DIFFERENTLY FROM COMMERCIAL ENTERTAINMENT VIDEO PROGRAMMING.

A number of parties filed initial comments which recommend approaches to imposing responsibility for captioning which would result in the proposed regulations applying directly to ITFS licensees and/or ITFS programming.<sup>6</sup> In particular, some commenters argue that there should be no blanket exemption from the captioning regulations for instructional programming.<sup>7</sup> They claim that the value of educational programming justifies making it accessible for the deaf

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<sup>5</sup> See Comments of Indiana Higher Education Telecommunication System, at 10-13; Comments of Catholic Television Network, at 6-8; Comments of The Wireless Cable Association International, Inc., at 13; Comments of BellSouth Corporation, at 15-16; Joint Comments of Higher Education Parties, at 4-5; Joint Comments of ITFS Parties, at 5-7.

<sup>6</sup> Captioning requirements may also be imposed on ITFS licensees indirectly if a video programming provider seeks to shift the burden of captioning to an ITFS licensee as a condition of carrying its instructional programming on a cable system. See NPRM, ¶ 30.

<sup>7</sup> See, e.g., Comments of The League for the Hard of Hearing, at 7; Comments of Association of Late-Deafened Adults, at 5; Comments of Northern Virginia Resource Center for Deaf and Hard of Hearing Persons, at 5; Comments of The Coalition of Protection and Advocacy Systems, at 6. These commenters urge the Commission to refrain from granting a blanket exemption for instructional programming. Some refer generally to instructional programming while others specifically mention courses broadcast by colleges and universities.

and hearing-impaired.<sup>8</sup> While this argument may have merit with regard to commercial, educational programming transmitted to the public, it should not be applied to ITFS programming.

ITFS stations do not generally deliver video programming directly to the public or to consumers' homes. ITFS programming is distributed through a closed-circuit system to receive sites established by the licensee, and is primarily intended to be viewed only by students registered for specific courses in which the programming is used as instructional material. In contrast to commercial programming, ITFS licensees have the opportunity and responsibility to determine whether there is a need to accommodate deaf or hearing-impaired students at their receive sites and how best to accommodate those needs. Thus, there should be no concern that rules implementing Section 713 of the Telecommunications Act of 1996 are necessary to make ITFS programming accessible to the deaf and hearing-impaired community.<sup>9</sup>

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<sup>8</sup> See, e.g., Comments of League for the Hard of Hearing, at 4 ("We understand that captioning of such programming as lower rated news, public affairs, educational and children's programming . . . have a greater public interest value, therefore, a greater need to be accessible to all citizens").

<sup>9</sup> As noted by Rockville Centre, televised fund-raising activities of non-profit organizations should be exempt from captioning requirements. See Comments of Diocese of Rockville Centre, at 5; NPRM, ¶ 81.

III. LOCAL EDUCATIONAL AND RELIGIOUS PROGRAMMING  
ON PEG CHANNELS SHOULD BE EXEMPT FROM  
CAPTIONING REQUIREMENTS.

CTN also supports an exemption from the Commission's captioning requirements for local educational and religious programming on public, educational and government ("PEG") access channels. The Commission sought comment on such an exemption in the NPRM (§ 74). Rockville Centre pointed out in its comments that its Telicare channel is transmitted on a PEG channel and that it provides "Ecumenical religious programs and programs covering the needs and interests of Long Island communities."<sup>10</sup> CTN acknowledges the public interest value of making such programming accessible, but it agrees with Rockville Centre that, absent alternative sources of funding, PEG access users generally lack the financial resources to provide captioning services. Therefore, if subject to mandatory captioning, programming such as Telicare's educational and religious programming could face extinction. Rather than causing its elimination, the Commission should include such programming in its proposed exemption for PEG programming.

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<sup>10</sup> Comments of Diocese of Rockville Centre, at 4.

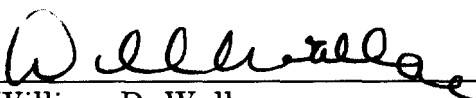
IV. CONCLUSION

CTN requests that the Commission reject any proposed rule which would impose captioning on ITFS programming and adopt rules governing the captioning of video programming consistent with the views expressed in CTN's Comments and herein.

Respectfully submitted,

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Date: March 31, 1997